

TOWN OF COTTAGE GROVE
TOWN BOARD MEETING
MARCH 2, 2015

I. ADMINISTRATIVE

- A. Notice of the meeting was posted at Town Hall, the park at 4539 American Way, Gaston Road at Brown Thrush and US Hwy 12 & 18 at County Road BN, and on the Town's web site. Town Chair Kris Hampton and Supervisors Mike Fonger, Steve Anders, Mike DuPlayee and Kristi Williams were present, along with Clerk Kim Banigan, Treasurer Debra Abel, Attorney Connie Anderson, Captain Jeff Teuscher, Lt. Brian Hayes, and Deputy Jennifer Grafton. A sign-in list of other attendees is available in the Clerk's office.
- B. Hampton called the meeting to order at 7:00P.M.
- C. Minutes of previous meeting(s): **MOTION** by Williams/DuPlayee to approve the minutes of the February 16, 2015 Town Board meeting as presented. **MOTION CARRIED 5-0.**
- D. Finance Report and Approval of Bills:
 - 1. **MOTION** by DuPlayee/Anders to approve payment of bills corresponding to checks #23371-23410 as presented. **MOTION CARRIED 5-0.**
 - 2. **MOTION** by Anders/Fonger to approve payment of February per diems as presented, and payment of \$280.00 to Viken Inspection Agency for February building permits. **MOTION CARRIED 5-0.**
- E. Public Concerns: None.
- F. Road Right of Way Permits: **MOTION** by Anders/DuPlayee to approve two road right-of-way permits for Alliant Energy: 1) to plow underground for primary line installation at 3701 S. Hope Road, and 2) to plow underground for new electric service at 2321 Uphoff Road. **MOTION CARRIED 5-0.**

II. BUSINESS:

- A. Discuss/Consider resident request to study possible creation of an ordinance to restrict residency for sex offenders in the Town: There was a full house of residents here for this topic. Hampton said that the Town has obtained sample ordinances from the cities of Milwaukee and Sun Prairie, and that he has spoken with the Chair of the Town of Dunkirk where a Level 3 sex offender is living in a situation as was proposed at 4721 Gaston Circle, the target of a recent arson. Dunkirk's attorney advised against an ordinance regulating sex offender residency, but their Town Chair indicated that they are still thinking about it. Hampton then asked Attorney Anderson to provide legal advice as to what the Town can and cannot regulate.

Atty. Anderson made the following points:

- o The Cottage Grove Town Board has been granted "village powers" by the electors at a Town Meeting, which allows the Town Board to exercise powers conferred to village boards as long as they don't conflict with statutes relating to towns and town boards. One of these limitations means that the Town of Cottage Grove does not have zoning authority as cities and villages do. The Town Board does have "police powers" through these means, however, which she said could be described as "the power of the government to regulate conduct and property of some for safety and property of all." Police powers allow the Town to adopt regulations for the health, safety, welfare and convenience of the public. She felt this was applicable to the topic of government regulation of sex offender residency.
- o The process of exercising police powers must be one of "deliberate speed" that includes procedural safeguards to assure due diligence, public input and prompt action. This includes holding open meetings and careful review of both the basis for regulation and the means used for regulation.
- o Should the Town Board decide to pursue a local ordinance regarding residency of sex offenders, they will refer the matter to the Ordinance Committee. Once the committee has prepared a draft

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ordinance, it will be scheduled for public review and comment at a properly noticed public hearing before the Town Board, followed by possible action by the Town Board.

- The purpose of tonight's meeting is to gather input from the community as to what issues would be appropriate for review by the Ordinance Committee.
- As was stated earlier, the cities of Milwaukee and Sun Prairie already have such ordinances, as do several municipalities in the Milwaukee area, and a legislator is currently asking for action on a state law, which would preempt local regulation. Recently, in the state of New York, the courts held the state law preempted local ordinances.

Murali Kudipudi, 4729 Gaston Circle, said he was representing the neighborhood and made the following points:

- The residents are asking the Town Board to 1) consider enacting an ordinance to prohibit property owners from leasing or renting properties in the town for the purpose of housing Level 3 sex offenders and 2) require the discontinuance of any such existing housing arrangements when the current lease is up, or one year from the effective date of the ordinance.
- Level 3 sex offenders have a high rate of re-offending, and he does not believe that DOC or DHS are doing their homework when it comes to selecting the homes to house them in. He lives right next door to the house at 4721 Gaston Circle, and has three children under 8 years of age. A nearby neighbor has three children under the age of 12, and there are 24 children within 600 feet. He provided a map showing the relative location of homes with children, as well as the distance of 2034 feet to Kid's Safari where 195+ children are cared for.
- Any home in any neighborhood could potentially be purchased for this purpose, so it is important that the Town act now to regulate it, not wait to see if the state takes action.

Maria Jaszewski, 4728 Gaston Circle, said studies indicate a drop of 6% in property values within .3 miles of a Level 3 sex offender, and that buyers are often reluctant to consider homes in such locations. Gary Garczynski, 2610 Simpson Drive, said he has seen studies showing a 17.4% decrease in property values within .1 mile, and a 10% drop within .2 mile. He was asked to forward these studies to the Town Clerk.

Ms. Jaszewski said that having a Level 3 sex offender in the neighborhood could also lead to more vehicular traffic on normally quiet streets due to law enforcement and DOC personnel, as well as other curious parties, which would also affect the safety of the neighborhood.

Carol Klubertanz, 4680 Gaston Circle, felt that the neighborhood had been blindsided by the November 2014 notice that a Level 3 sex offender would be placed there. She said it will take away the security and potential for enjoyment of the neighborhood, and asked that the Town Board enact an ordinance to prohibit this.

Marlene Web, 2615 Simpson St., said that town subdivisions do not have the lighting that is typical in cities and villages, and said that a sex offender confined to a house is likely to get restless. If he were to leave the premises, it would be difficult to see him moving about the neighborhood at night. John Huber, 2585 King Drive, and Toni Skala, 2546 Gaston Road also expressed concern about safety in the neighborhood.

Captain Teuscher said the Sheriff's Office receives notice 30 days in advance of a Level 3 sex offender being placed in a community, to allow time for a community notification meeting.

Town Board discussion: It is important to address the overall situation, not just the house on Gaston Circle. What unique features of the town should form the basis for the regulation, and what is the

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appropriate separation from them? Such ordinances in other municipalities regulate areas within 1500 or 2000 feet of schools, parks, daycare centers, and areas where children are likely to congregate. What is the definition of children congregating vs. living in the Town? Playing together in a back yard? Waiting at a school bus stop? Atty, Anderson cautioned that you cannot restrict everything, there has to be a balancing of interests.

MOTION by Hampton/Williams to refer the matter to the Ordinance Committee, and direct Attorney Anderson to begin drafting an ordinance for them to review at the onset, along with the minutes of tonight's meeting and any other related materials that are received. Residents were asked to forward any studies they have found relating to property value or re-offending rates to the Town Clerk.

MOTION CARRIED 5-0.

- B. Discuss/Consider referring non-payment by the Village of Cottage Grove of an invoice from Cindy Butteris for trees removed at 4136 Vilas Road to the Town Attorney: **MOTION** by DuPlayee/Anders directing Atty. Anderson to send a letter to the Village Attorney and Administrator asking for their cooperation in paying the invoice. **MOTION CARRIED 5-0.**
- C. Discuss/Consider approval of an annual Implements of Husbandry permit for Frontier-Servco FS to operate 4 implements, all of which exceed statutory axle weight limits, on all Town Roads: The application was for all Town roads year around, which was not acceptable to the board. **MOTION** by DuPlayee/Williams to return the application with instructions to complete section 5 with appropriate specificity. **MOTION CARRIED 5-0.**
- D. Plan Commission Recommendations: Steven M. Querin-Schultz, applicant, Joanne B. Schultz, landowner: combine parcel 0711-103-9730-0 (.16 acres zoned A1-EX) with parcel 0711-103-9720-0 (.81 acres zoned R-1): It was noted that the .16 acres is essentially a waterway on western boundary of the R-1 property, which Steve had quit-claimed to Joanne, and she wishes to combine it with her existing parcel. **MOTION** by DuPlayee/Fonger to recommend approval of combining parcel 0711-103-9730-0 (.16 acres zoned A1-EX) with parcel 0711-103-9720-0 (.81 acres zoned R-1).
MOTION CARRIED 5-0.
- E. Finalize color of new door for Flynn Hall: **MOTION** by Hampton/DuPlayee to go with a white door and a black frame. **MOTION CARRIED 5-0.**

III. CLERK'S REPORT: None.

IV. BOARD REPORTS AND COMMUNICATIONS:

- A. Hampton brought back a sample ordinance from the recent WTA meeting to allow alternative forms of sworn testimony at Board of Review. This is optional, not mandatory. There was also an interesting presentation at the meeting regarding funding of local transportation in Wisconsin.

V. COMMITTEE REPORTS:

- A. Deer-Grove EMS Commission: Business as usual.
- B. Joint Town/Village Fire Department Committee: The committee reviewed recent Emergency Services Building repairs, including a new dishwasher and plumbing repairs in the EMS quarters.

VI. Adjournment: **MOTION** by Hampton/DuPlayee to adjourn. **MOTION CARRIED 5-0.** The meeting ended at 8:45 P.M.

Kim Banigan, Clerk
Approved 3-16-2015